

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Matthew F. Kennelly	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 1017	DATE	9/23/2003
CASE TITLE	Smith vs. GC Services		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] For the reasons set forth on the attached order, the Court grants plaintiff's motion for reconsideration (24-1). The judgment entered by the Court on 8/27/03 is vacated. The case is reinstated. A status hearing is set for 10/6/03 at 9:30 a.m. to address how the case should proceed from here.

- (11) ☒ [For further detail see order attached to the original minute order.]

No notices required, advised in open court.		number of notices	Document Number <div style="font-size: 2em;">29</div>
No notices required.		SEP 25 2003	
Notices mailed by judge's staff.		date docketed	
Notified counsel by telephone.		docketing deputy initials	
<input checked="" type="checkbox"/> Docketing to mail notices.		date mailed notice	
Mail AO 450 form.		Date/time received in central Clerk's Office	mailing deputy initials
Copy to judge/magistrate judge.			
OR	courtroom deputy's initials		

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interpreting the letter.

This does not, however, entitle Smith to entry of summary judgment in *his* favor. The parties offer two possibilities for what GC meant when it used the term “accrued but unposted interest.” Smith argues that the term referred to interest that had accrued prior to the date of the letter which the debtor already owed but which was not included in the “balance due.” GC argues that it referred not to interest that had accrued as of the date of the letter, but to interest that accrued between the time the letter was sent and its receipt by Smith. On the present record, we cannot say which (if either) of these possibilities is correct, as the parties have offered no evidence on the point. Nor are we in a position to determine whether the amount of “accrued but unposted interest” was at all significant in dollar terms. Without evidence on these points, the Court must conclude that genuine issues of material fact remain and that neither side is entitled to summary judgment. Smith is, however, entitled to an order vacating the entry of judgment against him.

Conclusion

For the reasons stated above, the Court grants plaintiff’s motion for reconsideration [docket #24-1]. The judgment entered by the Court on August 27, 2003 is vacated. The case is reinstated. A status hearing is set for October 6, 2003 at 9:30 a.m. to address how the case should proceed from here.


MATTHEW F. KENNELLY
United States District Judge

Date: September 23, 2003